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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,697	06/16/2000	Robert Lee Fitzsimmons JR.	VULC-004/00US	2303

22903 7590 02/01/2005

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EXAMINER
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YOUNG, JOHN L

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/594,697

Applicant(s)

FITZSIMMONS, ROBERT LEE

Examiner

John L Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

JOHN LEONARD YOUNG, ESQ.  
PRIMARY EXAMINER

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **NON-FINAL ACTION REJECTION ON RCE**

### **DRAWINGS**

1. This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

### **CLAIM REJECTIONS — 35 U.S.C. §101**

2. **Rejections Withdrawn.**

### **ACTION CLAIM REJECTIONS — 35 U.S.C. §103( a )**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3-14 are rejected under 35 U.S.C. §103( a ) as being obvious over Ogasawara US 6,123,259 (09/26/2000) [US f/d: 04/30/1998] (herein referred to as "Ogasawara").

As per claim 1, Ogasawara (the ABSTRACT; FIG. 6; FIG. 7; FIG. 1; FIG. 2; FIG. 8; col. 1, ll. 5-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col.

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7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; and col. 11, ll. 1-35; and whole document) shows “A method of supplementing an experience of a visitor to a public space, the public space including . . . recording in a memory of a portable electronic selection device, an identifier associated with . . . [items] wherein the recording occurs in response to a visitor selection while the visitor is positioned within the public space that contains . . . [items] . . . and responsive to the recorded identifier, providing access via a communications network to additional information relating to the . . . [item] associated with the recorded identifier.”

Ogasawara lacks an explicit recitation of “artifacts. . . .”

It would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Ogasawara (the ABSTRACT; FIG. 6; FIG. 7; FIG. 1; FIG. 2; FIG. 8; col. 1, ll. 5-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; and col. 11, ll. 1-35; and whole document) which discloses “*items*” and “*products*” would have been understood as showing “artifacts”, and it would have been obvious to modify and interpret the disclosure of Ogasawara cited above as implicitly showing “artifacts” because modification and interpretation of the cited disclosure of Ogasawara would have provided “*an electronic personal shopping system which is used . . . to assist shoppers to efficiently organize their shopping trips. . . .*” (see Ogasawara (col. 2, ll. 15-25)), based on the motivation to modify Ogasawara so customers can “*save time and money. . . .*” (see Ogasawara (col. 2, ll. 15-25)).

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As per claim 3, Ogasawara shows the method of claim 1.

Ogasawara (col. 3, ll. 1-15) discloses: *“Alternatively, the shopping list is prepared on a customer’s home personal computer system and is uploaded at the store’s web site through an Internet connection. The shopping list is then downloaded from the web site to the mobile terminal.”*

Ogasawara (col. 3, ll. 37-65) shows a “user profile database.”

The Examiner interprets the above disclosures as implicitly showing: “downloading and storing recorded identifiers from the portable device to a user profile database. . . .”

Ogasawara lacks an explicit recitation of “the visitor is no longer positioned within the public space.”

It would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Ogasawara (col. 3, ll. 1-15) implicitly shows “the visitor is no longer positioned within the public space. . . .” and it would have been obvious to modify and interpret the disclosure of Ogasawara cited above as implicitly showing “the visitor is no longer positioned within the public space. . . .” because modification and interpretation of the cited disclosure of Ogasawara would have provided *“an electronic personal shopping system which is used . . . to assist shoppers to efficiently organize their shopping trips. . . .”* (see Ogasawara (col. 2, ll. 15-25)), based on the motivation to modify Ogasawara so customers can *“save time and money. . . .”* (see Ogasawara (col. 2, ll. 15-25)).

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Claim 4 is rejected for at least substantially the same reasons and citations as found in the rejections of claim 3 and claim 1.

As per claim 5, Ogasawara shows the method of claim 1.

Ogasawara (col. 16, ll. 30-47) discloses: *“the personal shopping system may, when a customer scans an item, also transmit customer information to a point-of-sale (POS) terminal. . . .”*

The Examiner interprets the above disclosures as implicitly showing: “a workstation in the public space. . . .”

Ogasawara (the ABSTRACT; FIG. 6; FIG. 7; FIG. 1; FIG. 2; FIG. 8; col. 1, ll. 5-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; and col. 11, ll. 1-35; and whole document) shows “making the recorded identifier available via a workstation in the public space . . . or provide further content relating to the artifact associated with the recorded identifier.”

Ogasawara lacks an explicit recitation of “the workstation being tailored to identify public space content. . . .”

It would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Ogasawara (the ABSTRACT; FIG. 6; FIG. 7; FIG. 1; FIG. 2; FIG. 8; col. 1, ll. 5-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67;

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col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; and col. 11, ll. 1-35; and whole document) implicitly shows “the workstation being tailored to identify public space content. . . .” and it would have been obvious to modify and interpret the disclosure of Ogasawara cited above as implicitly showing “the workstation being tailored to identify public space content. . . .” because modification and interpretation of the cited disclosure of Ogasawara would have provided “*an electronic personal shopping system which is used . . . to assist shoppers to efficiently organize their shopping trips. . . .*” (see Ogasawara (col. 2, ll. 15-25)), based on the motivation to modify Ogasawara so customers can “*save time and money. . . .*” (see Ogasawara (col. 2, ll. 15-25)).

Claim 6 is rejected for at least substantially the same reasons and citations as found in the rejection of claim 5 and the rejection of claim 3.

Claim 7 is rejected for at least substantially the same reasons and citations as found in the rejection of claim 5 and the rejection of claim 3.

Claim 8 is rejected for at least substantially the same reasons and citations as found in the rejection of claim 1.

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Claim 9 is rejected for at least substantially the same reasons and citations as found in the rejection of claim 1.

Claim 10 is rejected for at least substantially the same reasons and citations as found in the rejection of claim 3.

Claim 11 is rejected for at least substantially the same reasons and citations as found in the rejection of claim 3.

Claim 12 is rejected for at least substantially the same reasons and citations as found in the rejection of claim 5.

Claim 13 is rejected for at least substantially the same reasons and citations as found in the rejection of claim 7.

Claim 14 is rejected for at least substantially the same reasons and citations as found in the rejection of claim 8.

## **RESPONSE TO ARGUMENTS**



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4. Applicant's arguments (filed 10/20/2004) concerning the obviousness rejections in the prior Office action have been considered but are not persuasive for the following reasons:

Applicant's arguments are moot based on new grounds of rejection introduced herein by the Examiner.

### CONCLUSION

5. Any response to this action should be mailed to:

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED  
PROCEDURE) or (703) 746-7239 (for formal communications marked AFTER-FINAL)

or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

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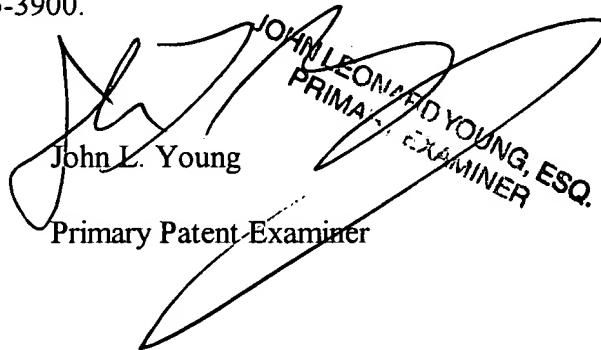
Arlington, Virginia.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801 or (571) 272-6725. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469 or (571) 272-6724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

  
John L. Young  
Primary Patent Examiner

JOHN LEONARD YOUNG, ESQ.  
PRIMARY EXAMINER

January 28, 2005